

FILED

March 9, 2006

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD **OF** MEDICAL EXAMINERS

In the Matter of:

KENNETH ZAHL, M.D.
License No. **MA56413**

ORDER ADOPTING
DECISION AND ORDER
OF THE BOARD'S
HEARING COMMITTEE AND
IMPOSING TEMPORARY
SUSPENSION OF LICENSE

This matter was returned to the Board of Medical Examiners on March 8, 2006, to allow the full Board to consider whether to adopt, reject or modify the findings of fact, conclusions of law and Order entered by the Board's Hearing Committee in the matter of Kenneth Zahl, M.D.

Upon review of the record **of** this matter, to include the transcripts of the three days of hearings held before the Hearing Committee and copies of all documents entered into evidence in the proceedings before the Hearing Committee, we unanimously conclude that cause exists to adopt, in its entirety, the Report and Order of the Board's Hearing Committee, filed on March 3, 2006, a copy of which is attached hereto and adopted, without modification, as the Order of the Board in this matter.

WHEREFORE, it is on this 8th day of March, 2006

ORDERED:

The Report and Order **of** the Board's Hearing Committee is

CERTIFIED TRUE COPY

hereby adopted in its entirety without modification. The license of respondent Kenneth Zahl, M.D., to practice medicine and surgery in the State of New Jersey **is** hereby Ordered to **be** temporarily suspended, effective March 9, 2006, pending the completion of all plenary proceedings in this matter.

NEW JERSEY **STATE** BOARD
OF MEDICAL EXAMINERS

By: *Sindy Paul, MD*
Sindy Paul, M.D.
Board President

FILED

MARCH 3, 2006

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
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STATE BOARD OF MEDICAL EXAMINERS

In the Matter of:

KENNETH ZAHL, M.D.
License No. MA56413

REPORT AND ORDER
OF THE BOARD'S
HEARING COMMITTEE

This matter was opened before the New Jersey State Board of Medical Examiners (the "Board") on January 26, 2006, upon the Attorney General's filing of a verified complaint against respondent Kenneth Zahl, M.D., seeking, *inter alia*, the entry of an Order temporarily suspending the license of respondent to practice medicine and surgery in the State of New Jersey pending a plenary hearing on the administrative complaint. An Order to Show Cause requiring respondent to appear before the Board on February 8, 2006 and then show cause why an Order temporarily suspending his license or otherwise limiting his practice should not be entered was simultaneously filed.

Respondent appeared before the Board on February 8, 2006, on which date we commenced a hearing on the application for temporary suspension. The hearing was thereafter continued on two additional days, February 22, 2006 and February 23, 2006.¹ At the

¹ The hearing commenced on February 8, 2005, and was then held before a quorum of the Board. When the hearing continued on February 22, 2005, again a quorum of the Board was present for the

hearing, the Attorney General called two witnesses, Dr. John Yulo and Ms. Elaine Caruso-Long, and respondent called seven witnesses, to include two patients, two members of Dr. Zahl's staff, Dr. Zahl's x-ray technician Shontell Graham, and finally Dr. Zahl himself. Numerous documents, to include certifications and deposition transcripts of individuals who did not testify at the hearing, were also moved into evidence.

The centerpiece of the Attorney General's application for temporary suspension is an allegation that Dr. Zahl repeatedly and extensively violated the terms of a Monitoring Order entered by the Board which conditioned his continued practice on a requirement that any procedures he performed were to be observed by a Practice Monitor, and that billings for those procedures were to have been

hearing. Because of the unprecedented length of this hearing, however, it was necessary on February 22, 2005 for the Board to delegate the function of hearing the application for the temporary suspension of Dr. Zahl's license to a Committee of the Board. The Committee was authorized by the Board to enter a decision on the application for temporary suspension and to impose any restrictions and limitations on Dr. Zahl's license, subject to the proviso that any determinations made by the Committee and/or actions ordered by the Committee would thereafter be subject to review by the full Board at the Board's next scheduled meeting on March 8, 2006, at which time the Committee's actions could be adopted, modified or rejected by the full Board.

The hearing then continued on February 23, 2006 before Board members Paul, Criss (the Committee Chairperson), Mendelowitz, Walsh and Lomazow, all of whom had been present for the full days of hearings conducted on February 8, 2006 and February 22, 2006. Board member Salas-Lopez, who had not been present on February 8 or February 22, also attended the hearing on February 23, 2006, but as she had not been present for the two prior days of hearing, did not participate in the final vote made by the Committee.

thereafter reviewed by a Billing Monitor. The Attorney General alleges that Dr. Zahl violated the Monitoring Order by having performed and then billed for some 130 procedures outside the presence of the Practice Monitor, by falsely claiming that the procedures had been performed by Dr. John Yulo, a physiatrist who Dr. Zahl employed (as an independent contractor) to work one day a week in Dr. Zahl's office, when in fact the procedures were performed by Dr. Zahl. The Attorney General further alleges that Dr. Zahl went to extraordinary lengths to seek to avoid detection and thereby perpetrate his scheme, to include preparing falsified patient records which, in repeated instances, identified Dr. Yulo alone or Dr. Yulo and Dr. Zahl in combination, as the physicians who performed the procedures; placing John Yulo's signature (byway of a stamp) on many of the patient records when Dr. Yulo in fact did not prepare the records, was not afforded an opportunity to see or review the records and never authorized Dr. Zahl to place his signature on the records; and thereafter falsely swearing, when served with an investigative demand for a statement by the Attorney General, that Dr. Yulo was the primary attending physician for the procedures and that Dr. Yulo had signed all of the operative reports as the attending physician.

In additional Counts of the Verified Complaint, the Attorney General alleges that Dr. Zahl has failed to comply with a requirement of the Board's prior Order that he pay attorneys fees

in an amount in excess of \$188,000 (Count 11); that Dr. Zahl has engaged in conduct which has frustrated and stymied the monitoring process, and that, as a result, the last report received from the billing monitors only covered bills submitted through March 31, 2005 (accordingly, it is alleged that bills submitted for the ten months thereafter have not been subjected to the required monitoring) (Count 111); and that Dr. Zahl has failed to comply with a term of the prior Board Monitoring Order by failing to have billed fluoroscopies, used in conjunction with injections given at multiple levels, on the basis of spinal regions imaged rather than spinal levels imaged, despite having agreed in the Order to have billed the procedures in such manner as the billing monitors (the United Review Services, hereinafter "URS") determined to be proper, and having thereafter been repeatedly advised in written reports generated by URS that the proper manner in which to bill the procedure was by region rather than by level.

Upon consideration of the voluminous evidence before us and the testimony offered, we have concluded that the Attorney General has palpably demonstrated that respondent has repeatedly engaged in purposeful and contumacious conduct designed to frustrate, evade and ultimately eviscerate the terms of the Monitoring Orders that this Board has entered. Significantly, those Monitoring Orders were entered to effect a judicial mandate that the Board monitor the financial and billing aspects of

respondent's practice pending the completion of appellate review of a prior Order entered by this Board wherein we found that Dr. Zahl was a fundamentally corrupt and dishonest practitioner, and ordered that Dr. Zahl's license be revoked. That judicial mandate by necessity is implicitly predicated on the proposition that respondent's practice could in fact be satisfactorily monitored by the Board, and the related proposition that such monitoring is necessary to ensure that an otherwise dishonest practitioner could safely practice without posing risks to the public. The judicial proceedings since the entry of that stay have now spanned almost three years in length, and have not yet been completed (although all findings of fact and conclusions of law which had been reached by the Board in 2003 have now been affirmed).

We conclude that any practice by Dr. Zahl without appropriate monitoring necessarily presents a clear and imminent danger to the public health, safety and welfare. Given our finding that Dr. Zahl has engaged in conduct designed to thwart and eviscerate the monitoring of his practice, we find that the Attorney General has met her burden of demonstrating a clear and imminent danger, and we therefore order the temporary suspension of respondent's license pending the completion of plenary proceedings in this matter. We set forth and summarize below in greater detail the procedural background of this matter, the evidence presented at the temporary suspension hearing and the basis for the

determination we have made that cause exists to herein order the temporary suspension of respondent's medical license.

Procedural History

No reasoned discussion or analysis of the present application for temporary suspension can be conducted without first outlining and considering the procedural history of this matter. By way of background, Dr. Zahl had been the subject of an administrative action that was commenced in August 1999 and thereafter tried at the Office of Administrative Law, wherein Dr. Zahl was charged with engaging in numerous acts of misconduct, to include inappropriate and false billing for submitting eighty-eight claims to Medicare for overlapping time periods in violation of Medicare regulations and billing guidelines; creation of false patient records by inserting time entries into anesthesia records of 102 patients where those entries falsely recorded overlapping, concurrent periods of time during which anesthesia services were provided to patients, creating false patient records by inserting the names of anesthesiologists other than Dr. Zahl in patient records when, in fact, Dr. Zahl was the only anesthesiologist who provided anesthesia services to the patients; making misrepresentations to a disability insurance carrier; and having submitted duplicate claims for certain medical services to two insurance carriers and thereafter retaining duplicate payments from those insurance carriers.

Ultimately, following seven days of hearings, an Initial Decision was entered by Administrative Law Judge Edith Klinger on

November 25, 2002, wherein she made findings sustaining all counts of the complaint filed against Dr. Zahl and recommended that the Board, *inter alia*, revoke the license of Dr. Zahl. Exceptions filed by Dr. Zahl to ALJ Klinger's initial decision were thereafter considered and ultimately rejected by the Board, and a Final Board Order was then entered on April 3, 2003, wherein the Board adopted the findings of fact and conclusions of law of ALJ Klinger (with minor modifications) and ordered that Dr. Zahl's license be revoked effective April 11, 2003, that Dr. Zahl be assessed civil penalties and costs (in a total amount in excess of \$232,000, as set forth in a supplemental order of the Board dated June 30, 2003; the amount included attorneys fees in excess of \$188,000, however the attorneys fee portion of the assessment was stayed pending appeal) and that he be required to repay \$1700 to an insurance carrier.²

On April 11, 2003, the Appellate Division entered a stay of the revocation of Dr. Zahl's license, "conditioned on appellant's satisfaction of any and all reporting requirements imposed by the State Board of Medical Examiners ("Board") and the payment of all costs associated with the Board's continuing supervision and oversight of the financial and billing activities of the appellant's medical practice." [S-1, 35a]. Thereafter, a

² For purposes of distinguishing the prior action against Dr. Zahl from the present action seeking the temporary suspension of his license, the prior action (i.e., that action which resulted in the Board's entry of an Order revoking Dr. Zahl's license on April 3, 2003) shall be referred to herein as *Zahl I*.

Monitoring Order was filed on May 5, 2003, which Order required that Dr. Zahl's practice be monitored by both a Practice Monitor (whose primary function was to observe Dr. Zahl's practice and prepare a contemporaneous log recording all medical procedures and/or services that Dr. Zahl performed or provided) and a Billing Monitor (whose primary function was to review the bills submitted by Dr. Zahl for accuracy and proper coding). [S-1, 113a]. The terms of the original Monitoring Order were later supplemented by the terms of a Consent Order filed on May 7, 2004, however that Order generally continued the requirements that Dr. Zahl's practice was to be monitored by a Practice Monitor and bills reviewed by a Billing Monitor. The Order recognized that the Practice and Billing monitoring functions were thereafter to be performed by registered nurses employed by the URS.

On June 9, 2005, the Appellate Division issued its opinion on Dr. Zahl's appeal. The Appellate Division affirmed and sustained all findings of fact and conclusions of law that had been reached by the Board, however concluded that the penalty of revocation was too harsh a penalty where no allegations of patient harm had been made.

Both parties sought review of the unpublished Appellate Division decision by the New Jersey Supreme Court. The Supreme Court then granted the Attorney General's petition for certification so as to review the conclusion reached by the

Appellate Division that the penalty of revocation should not be imposed on this record, but denied Dr. Zahl's petition for certification to review the remainder of the opinion. Accordingly, the issues of fact in *Zahl I* are at this point settled, as respondent has exhausted his appellate review of those findings. The only issue that remains pending before the Supreme Court is the issue whether the Appellate Division's determination that the findings made would not support the revocation of respondent's license because such a penalty would be too severe in the context of a practitioner who was not found to have harmed a patient. We are advised that the Supreme Court is scheduled to hear oral arguments on this case on March 6, 2006.

The present application for the temporary suspension of Dr. Zahl's license was preceded by the service of a Demand for Statement in Writing under Oath upon Dr. Zahl, wherein Dr. Zahl was required to provide information regarding any medical services that were billed by him or by his practice entity without the bills having been reviewed by a practice monitor. Within his response to that demand, Dr. Zahl made the following statements:

As of October 23, 2004, John Yulo, M.D. began providing medical services in connection with my practice and continued to do so until September 8, 2005. He was interested in improving his skills with spinal injections and possibly moving to northern New Jersey to join my practice. I was Present at times in a supervisory/proctoring capacity at first and then at times not Present onsite once I was satisfied with his ability to do these Procedures alone with Dr. Yulo being the primary attending. No bills for my services were

submitted but rather for the services provided by Dr. Yulo through Kenneth Zahl, M.D., P.C. and/or Ambulatory Anesthesia of New Jersey, P.C. Medical records and bills regarding this aspect of care provided by Dr. Yulo are provided with Bates Numbers R2D4SUO-0001 through 0623.

...

[I]n the time period of October 23, 2004 to September 8, 2005, treatment was provided to patients without bills having been reviewed by a URS monitor by Dr. Yulo together with Victoria Brand, CRNA as reflected in the accompanying records bearing Bates Nos. R2D4SUO-0001 through 0623. My name is included in some of these records but Dr. Yulo signed all operative reports as the attending physician. Under the terms of the May 7, 2004, Consent Order, since neither Dr. Yulo nor CRNA Brand are subject to the required presence of the URS practice monitor, these bills had not been submitted to the URS billing monitor for review. [emphasis added]

After Dr. Zahl responded to the investigative demand (it is noted that Dr. Zahl additionally provided copies of records of the procedures that he claimed had been performed by Dr. Yulo), Dr. Zahl filed a Notice of Motion on January 17, 2006 seeking clarification and/or modification of the terms of the Board's Monitoring Order. Within the motion, Dr. Zahl stated that he intended to move before the Board on February 8, 2006 for the approval of a payment plan to satisfy his obligation to pay attorney's fees, and sought declaratory relief as to the propriety of conduct including: 1) the submission of bills for medical services provided by Dr. Zahl or any licensed practitioner acting within the scope of his medical practice in connection with non-procedural encounters without observation by the Practice Monitor or review by the Billing Monitor; 2) the performance of independent

medical examinations outside the presence of the Practice Monitor and without submission of bills to the Billing Monitor; 3) Dr. Zahl's provision of medical services at Bergen Ambulatory Medical Services without the presence of a Practice Monitor and without submission of bills to the Billing Monitor; and 4) the submission of bills for medical services provided by other licensed practitioners acting within the scope of Dr. Zahl's medical practice in connection with procedural encounters without the presence of the Practice Monitor and without submission of bills to the Billing Monitor. Dr. Zahl also sought modification of the terms of the extant Monitoring Orders.

Given the subsequent filing, on January 26, 2006, of the Attorney General's application for the temporary suspension of respondent's license, we decided that we would table consideration of respondent's motion pending decision on the application for temporary suspension, given both the inherent relative weight of the applications (that is, given that the Attorney General's application alleged that any continued practice by Dr. Zahl posed clear and imminent danger to the public health, safety and welfare) and our observation that any decision that might be made on the application for temporary suspension could well moot any or all of the issues that were raised in respondent's motion.

Hearing before the Board

The hearing on the application for the temporary suspension of Dr. Zahl's license commenced on February 8, 2005. Dr. Zahl then appeared before the Board, represented by John Jackson, Esq. Deputy Attorneys General Paul R. Kenny and Jeri Warhaftig appeared for the complainant Attorney General.³ On February 8, we entertained opening arguments of counsel, and then the Attorney General called two witnesses, John Yulo, M.D. and Elaine Caruso-Long.⁴

³ Prior to the commencement of the proceeding before the full Board, respondent's motion for a limiting instruction to be provided to the Board was heard before the Hearing Chair, Board Vice President Karen Criss, C.N.M. Vice President Criss denied respondent's motion, but did publicly remind members of the Board that the decision should be on the facts presented in this hearing.

Two additional preliminary applications were determined. First, respondent's motion that the Board issue a subpoena to the State Police in Pennsylvania (for records concerning a complaint that Ms. Caruso-Long may have filed against the Pennsylvania police) was denied. Additionally, respondent sought the recusal of two Board members, Drs. Cheema and Lomazow from this proceeding. While Dr. Cheema did recuse from the hearing in this case, it was determined that no cause existed that would require the recusal of Board member Lomazow.

⁴ In an effort to expedite preparation of this Order, in order both to allow for judicial review and review by members of the Board on March 8, 2006, there have been instances where testimony has simply been summarized without references to transcripts, or where transcript references are made solely to the page on which testimony is found (without reference to specific lines on pages). Where references to transcripts are made, the following abbreviations are used:

T-1 = transcript of Wednesday, February 8, 2006.

T-2 = transcript of Wednesday, February 22, 2006.

Dr. Yulo, who specializes in physical medicine and rehabilitation, testified that he entered an agreement with Dr. Zahl to work one day a week in Dr. Zahl's office (Dr. Yulo generally worked on Thursdays at Dr. Zahl's Union office, but did work on a few occasions at Dr. Zahl's Rockaway office), for which he was to be paid \$1500 per diem as an independent contractor. Dr. Yulo began working for Dr. Zahl in October 2004 and continued to do so until September 2005, when he received a call from Elaine Caruso-Long advising him that his services were no longer required. Dr. Yulo understood that he had been employed primarily to perform EMG testing, and testified that in fact the bulk of his time at the office was spent performing such testing, and that the testing would generally be performed in one room while Dr. Zahl would be present in a separate procedure room.

Dr. Yulo testified that Dr. Zahl did in fact often invite him into the procedure room, but Dr. Yulo stated that his role when invited into the procedure room generally consisted of providing minimal assistance to Dr. Zahl or simply observing Dr. Zahl. Dr. Yulo conceded that, on several occasions, he may have in fact performed simple lumbar procedures, but testified that he would have performed no more than ten to fifteen such procedures as the primary attending physician during the entire tenure of his

T-3 = transcript of Thursday, February 23, 2006.

employment by Dr. Zahl [T1, 242]. With regard to the remainder of procedures (i.e., procedures other than lumbar injections or facet blocks) that Dr. Zahl has claimed Dr. Yulo performed, Dr. Yulo repeatedly denied having performed the procedures and repeatedly stated that he was then and is now unqualified to perform the procedures. Specific procedures that were discussed by Dr. Yulo included the following:

*** Cervical Injection Procedures: Dr. Yulo testified that he was unqualified to and could not perform a cervical injection procedure as a primary attending physician by himself (T1, 101), and thus testified that he was not the primary attending physician for any cervical injection procedure in the records supplied by Dr. Zahl. Dr. Yulo specifically stated that he did not individually perform a cervical epidural steroid injection on patient B.M. on January 6, 2005, but conceded he may have assisted on the procedure. Dr. Yulo's signature stamp appears at the bottom of the operative report [S-2, 186] for that procedure, however Dr. Yulo did not authorize Dr. Zahl to place his signature on the record.

*** Radio-frequency Lesioning Procedures: Dr. Yulo testified that he never performed any radio-frequency lesioning procedures by himself when at Dr. Zahl's office, as he had no prior training for that procedure [T1, 101-102]. Dr. Yulo observed and assisted Dr. Zahl in performing radio-frequency lesioning, but never operated the radio-frequency lesioning machine, as he was not qualified to

do so as he had no training [T1, 103]. Dr. Yulo further testified that he could not perform the procedure presently as he does not know how to operate the machine. Dr. Yulo denied that he performed a radio-frequency denervation of left medial branch nerves (at high level C2, C3, C4) on November 18, 2004 (which would have been approximately Dr. Yulo's fourth day working in Dr. Zahl's office) for patient J.M. [S-2, 76], and denied authorizing Dr. Zahl to place his signature on the operative report [S-2, 77]. Dr. Yulo similarly denied having performed a "right radiographic contrast dye injection at C3 and pulsed radio-frequency destruction of the left dorsal root ganglion at C3 [a radio frequency procedure] on February 24, 2005 for patient J.T. [S-3, 355], although the operative report and the anesthesia record list the physicians as Dr. Yulo and Dr. Zahl. Dr. Yulo again noted that he was not then performing the procedure and not qualified to do so. At most, Dr. Yulo could have assisted Dr. Zahl by putting on gloves and handing him the anesthetic [T1, 1081, but never operated the machine.

*** Discograms: Dr. Yulo testified that he was unqualified to perform a discogram by himself, noting that the procedure was an advanced procedure [T1, 111-112]. He thus denied having performed an "injection procedure of contrast dye for discograms at L2/3 and L3/4, a lumbar discography at L2/3 and L3/4 and interpretation and an intradiscal injection of anesthetic and steroids at both levels" upon patient O.F. on June 2, 2005 [T1, 113-115], notwithstanding

the fact that the operative report lists Zahl and Yulo as the physicians [S-3, 520]. Dr. Yulo conceded that he could have been present during the procedure and could have assisted Dr. Zahl, but testified that he never performed any discograms, while employed by Dr. Zahl, as the primary surgeon [T1, 115].

*** Nucleoplasties: Dr. Yulo testified that he "absolutely [did] not" perform nucleoplasties at Dr. Zahl's office, as he has never done that advanced procedure by himself [T1; 117-119]. At most, Dr. Yulo may have observed Dr. Zahl perform a nucleoplasty. Dr. Yulo denied performing a nucleoplasty upon patient M.K. on January 27, 2005, notwithstanding the fact that the operative report lists the physicians as Zahl and Yulo (and is stamped with both physicians' signatures) and the anesthesia report lists only Dr. Yulo as the surgeon [S-2, 250-251].

*** Ganglion Impar Injections: Dr. Yulo testified that he has never performed a ganglion impar injection alone, and further stated that he wouldn't do so because he would place a patient at "risk" were he to attempt to perform a ganglion impar injection by himself [T1, 126]. Dr. Yulo thus stated that, on June 30, 2005, for patient E.R. [S-3, 568] he recalled that he observed Dr. Zahl perform the procedure, and assisted to the limited degree of putting on gloves and putting the needle in the low back area. Dr. Yulo further testified that Dr. Zahl then got the needle to the right location and performed the injection [T1, 124-125]. Dr. Yulo

was not, however, the primary attending physician for any ganglion impar injection, as he could not be the primary physician for a procedure he has never performed [T1, 127].

*** Lumbar Sympathetic Blocks: Dr. Yulo denied that he ever performed a lumbar sympathetic block by himself while he was at Dr. Zahl's office. [T1, 130, 132]. He thus denied that he was the primary attending physician for a procedure performed on patient M.P. on June 30, 2005 [S-3, 577], and further testified that although he could have assisted Dr. Zahl by inserting the needle into the patient, Dr. Zahl would then have completed the insertion into the proper location and completed the procedure. As with other procedures, Dr. Yulo testified that he had no role in preparing the operative notes, and did not personally sign the operative record [T1, 130-131].

*** Stellate Ganglion Blocks: Dr. Yulo testified that he has never performed a stellate ganglion block [T1, 132-136]. Dr. Yulo further stated that he would have "assisted" in the relative sense of watching the procedure. Dr. Yulo thus testified that he did not perform a stellate ganglion block on patient R.L. on December 9, 2004, notwithstanding his signature stamp appearing on the operative report [S-2, 115]. Dr. Yulo did not sign the operative record or authorize Dr. Zahl to place his signature stamp on the record [T1, 135].

In addition to the testimony concerning the above types of procedures, Dr. Yulo also provided specific testimony concerning his activities on the first day he visited Dr. Yulo's office, which was on Saturday, October 23, 2004. Dr. Yulo testified that, on that date, he simply observed Dr. Zahl perform procedures, and testified that he did not remember gloving for any of the procedures. Dr. Yulo specifically denied that he performed a left L3, 4, 5 facet (medial branch) and L5 dorsal ramus injection on patient M.G., as he testified that he was not then qualified to do the procedure, and instead simply recalled observing Dr. Zahl perform the procedure. He similarly denied having performed a right and left L3, 4, 5 facet (medial branch) and L5 Dorsal Ramus injection on patient W.A. [S-2, 7], as he testified that he had never performed that procedure before in his life and was not qualified to do the procedure, and denied having performed a facet injection upon patient R.B. [S-2, 13], stating that he was not qualified to do the procedure and that he neither signed the operative report nor authorized Dr. Zahl to put his signature on the report.

Finally, Dr. Yulo categorically denied that he ever performed any procedures or, indeed, that he had ever had even been to the Bergen Ambulatory Center in Saddle Brook, New Jersey. Dr. Yulo thus testified that he did not, on August 22, 2005, perform any procedure upon patient M.R. at the Bergen Ambulatory Center

(although Dr. Yulo conceded that the procedure performed, a lumbar facet injection, was a procedure that he could have done by himself). Similarly, Dr. Yulo testified that he did not perform any procedure at Bergen Ambulatory Center on September 8, 2005, for patient M.R. [S-3, 615] [T1, 142]. On cross examination, it was noted that although the billing records indicated that the procedure had been performed at Bergen Ambulatory Center, the procedure note was on letterhead listing Skylands Pain relief clinic [T-1, 226].

Dr. Yulo repeatedly testified that he did not sign any of the operative reports which bear his signature, never authorized Dr. Zahl to sign his name on any of the operative reports' and in fact was never given an opportunity to read or review any of the operative reports that were prepared by Dr. Zahl. This was in marked contrast to occasions when he performed EMG testing -- in those instances, Dr. Yulo testified that he would prepare and sign procedure reports.

Dr. Yulo additionally testified that, subsequent to the time that he left Dr. Zahl's employ, he received a telephone call from Dr. Zahl, which call was recorded on his answering machine tape and ultimately turned over to the Attorney General. [A transcript of the message left by Dr. Zahl was entered into

⁵ We note that all of the operative reports that bear Dr. Yulo signature's appear on visual inspection to have been "signed" by application of a signature stamp.

evidence as S-6; the actual tape was entered into evidence as S-7}. On the call, which is identified as having been received just prior to Christmas in December 2005, Dr. Zahl asks that Dr. Yulo return his call, and states that he wants to talk to Dr. Yulo "about either me coming down with the charts or you coming up for some point in time to sign all the procedures that you did." Dr. Zahl represented that "for billing purposes, it pays for me to have the original signature." [S-6]. Dr. Yulo also testified that Dr. Zahl called him another time thereafter and left a message asking that Dr. Yulo call Dr. Zahl back [T1, 148-149], that Dr. Zahl's office staff and Dr. Zahl's wife called his place of employment "almost every day", and left messages stating that there were reports that Dr. Yulo needed to sign, that they had Dr. Yulo's 1099 and that they had missed paying him on a few days and had some of his salary checks [T1, 150]. Dr. Yulo also testified that "Mike" from Dr. Zahl's office also left a message on his home machine [T1, 149-151].

Elaine Caruso-Long, whose background is as a billing expert [T1, 263] has worked in the medical field for 27 years [T1, 264] was employed by Dr. Zahl initially in March 2005 as a consultant and then later in July 2005 as Dr. Zahl's office manager [T1, 266-67]. Ms. Caruso-Long then was employed as Dr. Zahl's office manager from July 29, 2005 through November 3, 2005 [T1, 268]. While she had many job responsibilities, she was advised by

Dr. Zahl's wife, Margharita Zahl (who served as Dr. Zahl's practice manager, and was Ms. Caruso-Long's immediate supervisor) that her main focus was to make sure that the practice stayed compliant with the URS monitoring [T1, 268-69].

Ms. Caruso-Long ceased her employment relationship with Dr. Zahl on November 3, 2005, following a series of disagreements she had with Dr. Zahl. On November 10, 2006, Ms. Caruso-Long sent a letter to the Board office wherein she stated that "Dr. Zahl is not complying with [the Board's monitoring orders] and has recently terminated me because I persistently tried to persuade him to comply with these orders." [S-4, 68a]. Ms. Caruso-Long testified that Dr. Zahl did not allow her to furnish records to URS, and that she was repeatedly prohibited from sending records to URS [T1, 280-81]. In addition to testimony related to the above issues, substantial testimony was received from Ms. Caruso-Long regarding events that occurred during the course of her employment by Dr. Zahl and regarding her interactions with Dr. Zahl, Mrs. Zahl and Mr. Jackson.

The Attorney General additionally submitted a certification of Peggy Barron, an employee of URS, who certified that the billing monitoring had been conducted, from the inception of URS' appointment to conduct practice and billing monitoring, by Dr. Zahl providing redacted copies of his bill and the patient's operative and, where necessary, anesthesia records to the practice

monitor who would then bring the documents to the URS office. Ms. Barron recounts in her certification that a total of six bill monitoring reports had been prepared, with the last such report having been dated September 12, 2005 and covering the quarter that commenced January 1, 2005 and concluded March 31, 2005. Ms. Barron further certified that URS had made demands that Dr. Zahl produce records related to certain procedures he had performed from April 2005 on, however necessary documents were not provided by Dr. Zahl to the URS monitors. Ms. Barron states that bills and documentation for all procedures performed from October 2005 on have not been received by URS. Finally, Ms. Barron details in her certification that URS had determined that the proper method of billing fluoroscopy used in conjunction with injections given at multiple levels was to bill on the basis of spinal regions imaged rather than spinal level images, and relates that URS' decision was communicated to Dr. Zahl in each of the six reports that URS prepared. Ms. Barron notes, however, that Dr. Zahl continued to bill on a per level rather than per region basis, and that he did not reform and reissue any of his prior bills where he had billed on a per level basis.

The Attorney General additionally submitted a certification of Kathleen Ostrowski, R.N., an employee of URS. Ms. Ostrowski certified that she had reviewed practice monitor logs related to the dates on which the procedures Dr. Zahl has claimed

were performed by Dr. Yulo were done, and states that her review confirmed that no practice monitor was present for the procedures performed on the identified patients on the identified dates.

In defense, Dr. Zahl presented testimony of six witnesses, to include two patients, three employees and a handwriting expert⁶. Dr. Zahl also testified on his own behalf.⁷

⁶ Renee C. Martin, a forensic document examiner, was called to provide testimony regarding her review of a Medicare assignment of benefits form that bore signatures of Dr. Yulo and Elaine Caruso, on which the date of signature appeared to have been "whited out" in two locations. Given that we have not found it necessary to make findings regarding that document for purposes of deciding the application for temporary suspension, we will not herein summarize or recount any testimony offered by Ms. Martin, instead noting that issues related to that document may instead be explored in greater detail, if deemed necessary, at the plenary hearing to be held at a later date in this matter.

For similar reasons, we do not perceive any need herein to summarize or recount testimony offered by Robin Kornegay, who does medical billing for Dr. Zahl, as her direct testimony concerned her conversations with representatives of Medicare concerning whether the document analyzed by Ms. Martin had in fact been submitted to Medicare, and other testimony offered on cross examination, which may be relevant in the plenary proceedings that will be conducted hereafter in this matter, was not deemed to be relevant for the Committee's determination whether or not cause exists to temporarily suspend Dr. Zahl's license.

⁷ On Tuesday, February 21, 2006, respondent filed a motion with the Board seeking to require the Board to issue a subpoena to require Ronald L. Brody, M.D., to attend and testify at the hearing on February 22, 2006. Argument on the motion was heard, by way of telephone conference call, by Board President Paul. Dr. Paul then concluded that the Board would not issue the subpoena because Mr. Jackson was seeking a "forthwith subpoena", and she pointed out that the proffer that had been made by Mr. Jackson concerning testimony that might be offered by Dr. Brody was speculative.

Dr. Paul did note, however, that her decision was not intended to suggest that Mr. Jackson could not seek to issue a

Mary Boin testified that she has been treated by Dr. Zahl and has had procedures where she received injections on ten or eleven occasions. She recalled that on one instance, she was introduced to Dr. Yulo, and she recalled that Dr. Zahl then told her that Dr. Yulo would be doing the procedure and Dr. Zahl would be "overseeing" him [T2, 37-38]. She further testified that she recalled that she then was laying on her stomach and received an injection in her neck. Ms. Boin was unable to recall the specific date on which the procedure was performed by Dr. Yulo, and testified that she did not actually see who put the needle in her neck but instead based her conclusion that Dr. Yulo performed the procedure on the direction from which the voices were coming in the room. Ms. Boin recalled that on other dates, Dr. Zahl performed procedures upon her.

John Mulvihill, a patient of Dr. Zahl's since the summer of 2004, testified that he received treatments from Dr. Yulo on several occasions. Mr. Mulvihill testified that the injections he received from Dr. Yulo were done in the cervical spine and also in the lumbar region of the spine, but he couldn't recall specifically

subpoena to compel the appearance of Dr. Brody pursuant to Uniform Administrative Procedure Rule 1:1-11.1(a), or otherwise seek to arrange for Dr. Brody to appear and testify, and further suggested that the Board would entertain testimony from Dr. Brody by way of telephone conference. See Letter from Dr. Paul to John Zen Jackson and Paul R. Kenny, D.A.G., dated February 22, 2006. Ultimately, Dr. Brody did not testify (nor was any certification from Dr. Brody presented for Committee consideration).

which of the procedures Dr. Yulo was involved in. Like Ms. Boin, Mr. Mulvihill also stated that he did not actually watch the insertion of the needle.

Miriam Vega, who is a receptionist employed by Dr. Zahl, testified that she recalled seeing Dr. Yulo on October 23, 2004, a Saturday, and testified that the schedule for that date listed patients scheduled for Dr. Yulo to take care of. She further stated that October 23 was not the first time that Dr. Yulo came to see Dr. Zahl, as she had seen Dr. Yulo before on September 23, 2004 (although she did not recall anything that Dr. Yulo may have done that date with Dr. Zahl). Ms. Vega conceded that she did not go into operating rooms and did not know what Dr. Yulo may have done on October 23, and also conceded that entries in and changes to the schedule could have been made by numerous people in Dr. Zahl's office.

Shontell Graham, an x-ray technologist has worked for Dr. Zahl since September 2003. Ms. Graham, who enters the name of the physician who performs a procedure on the fluoroscopy image that is saved in the hard drive for each procedure (the physician name is selected from a drop down menu), testified that she recalled that Dr. Yulo did procedures without the monitor present [T2, 167]. Copies of fluoroscopy images for all but three of the procedures that were the subject of this action were moved into evidence [Z-35], and a stipulation made that, in all but eight cases, the

physician identified on the fluoroscopy image was Dr. Yulo (in the other eight cases, Dr. Zahl was identified as the physician on the fluoroscopy image) [T2, 172-173]. Ms. Graham testified that she repeatedly entered Dr. Yulo's name in the machine "because he was doing the procedure." [T2, 174, 1. 5-8]. Ms. Graham then stated that, on the eight occasions she had entered Dr. Zahl's name rather than Dr. Yulo's, it was possible that she may have made an input mistake, but in the other cases she entered Dr. Yulo's name because he was the physician doing the procedure [T2, 175; 185].

On cross examination, Ms. Graham stated that she decides whose name to put on the image before the patient enters the procedure room [T2, 187], and stated that she put down the name of the physician she understood was going to do the procedure [T2, 195]. She initially testified that she makes the decision based on information on a sheet of paper that includes a check off for what is going to be used for an image and based on the consent form [T2, 187], however later stated, after conceding that neither the sheet of paper to which she had referred nor the consent form would indicate whether Dr. Yulo was performing a particular procedure, that she determined who would be performing a procedure based on who was in the room.⁸ Ms. Graham claimed that although she could

⁸ Ms. Graham thus testified, at T2, 194, 1. 12-20:

Q: So then how does the piece of paper tell you who's going to perform the procedure?

have made a mistake when she inaccurately put Dr. Zahl's name on a fluoroscopy image, in no case did she mistakenly put Dr. Yulo's name on an image when Dr. Zahl in fact performed the procedure [T2, 190]. She also testified that the drop down menu only allowed her to place one name on the image; thus, if she placed Dr. Yulo's name on an image and Dr. Zahl later came into the room to assist Dr. Yulo, Dr. Zahl's name would not have been added to the record [T2, 196].

In addition to the testimony that was offered, respondent has submitted numerous certifications of patients and office staff, to include a certification of patient Robert Miller, who states that he was receiving treatment for management of pain. Mr. Miller stated that he received treatment by Dr. Yulo on at least one occasion, and stated that the treatment consisted of a procedure involving the placement of needles in the lower spine. Mr. Miller recalls being introduced to Dr. Yulo by Dr. Zahl and "understood" that Dr. Yulo would be the physician performing the procedure; Mr. Miller does not know if Dr. Zahl remained in procedure room with

A: Because I'm there when I know who's going to do what. If I'm there with Dr. Zahl, I know Dr. Zahl is going to do it. If Dr. Yulo is there, I know that he's going to do it.

Q: But you are not learning that from that piece of paper, correct?

A: No, I'm not.

Dr. Yulo, but recalled that x-ray technician Shontell as well as an anaesthesiologist were present. Mr. Miller stated that Dr. Yulo performed only one procedure on him, but recalled that it was so painful that he asked Dr. Zahl not to have Dr. Yulo involved in his treatment again. Mr. Miller also stated that he had further treatment procedures thereafter performed by Dr. Zahl without a repeat of the painful experience. Mr. Miller was shown a copy of a medical record showing that on April 21, 2005, Dr. Yulo was the physician who did a procedure on him identified as a lumbar sympathetic anesthetic injection, and states that the document corresponds with his general sense of the time at which Dr. Yulo treated him.

Certifications supportive of Dr. Zahl's general medical care and treatment were submitted by patients Eric Stehling (a patient who appeared as a witness before the Board on March 11, 2003, who states that he continues to receive treatment with Dr. Zahl on a recurring basis, and that he is impressed and reassured by Dr. Zahl's approach, demeanor and skill in his care), Diana Clark [Z-12] (a patient with disabling back problems, who states that she has moved to California but continues to consult with Dr. Zahl for pain management, and points out that her local physician has voiced his "favorable impression" of the complicated procedures and careful follow-up provided by Dr. Zahl), and Gisele Sanfilippo (a patient with disabling back problems, who states that she has

continued to treat with Dr. Zahl on a recurring basis with her most recent visit being February 1, 2006, and that she hoped that Dr. Zahl would continue to be available as a physician for her and her family).

A certification of Sandra Ginard, the Certified Registered Nurse Anesthetist who was present on October 23, 2004, was offered addressing the records of procedures performed on that date. Ms. Ginard states that she worked with Dr. Zahl in the past but is not currently so engaged. Ms. Ginard states that she was present as the CRNA for several pain management procedures done by Dr. Yulo in which he served as the primary attending physician, involving facet blocks, at Dr. Zahl's office in Union. Ms. Ginard stated that she reviewed records for three procedures done on October 23, 2004, when she was the CRNA in attendance. Ms. Ginard stated that each of the operative reports identified Dr. Yulo as the physician performing the procedure, and that the operative reports "fit" with her memory of the events. Ms. Ginard states that she did not enter Dr. Yulo's name on the anesthesia record in the block available for "\\surgeon"but rather put Dr. Zahl's name for the first two cases and left it blank for the third, and further states that she understood that Dr. Yulo would not be the physician billing for these procedures but rather that the billing would be done through Dr. Zahl's practice (which was similar to the arrangement she had with Dr. Zahl in which she did not bill

directly for her services as a CRNA but rather assigned the right to bill to Dr. Zahl's practice).

Finally, Dr. Zahl testified in his own defense. While his testimony concerned many subjects, we focus herein on those subjects of his testimony which we consider relevant to our determination. Initially, Dr. Zahl acknowledged that he was aware that as of May 2003 a Board Order required that if he was going to bill for his practice of medicine, he had to be observed by a Practice Monitor, and his bills had to be reviewed by a Billing Monitor, both designated by the Board. He claimed that he attempted to comply with the order, and that as he had questions as to whether conduct he contemplated would be in compliance, he authorized his attorney to write inquiries to the Board. Dr. Zahl claimed although he received no response initially, he continued the URS monitoring [T2, 265]. He further testified, however, as to his belief that monitoring was not required for procedures which were performed by his employees. Specifically as to Dr. Yulo, Dr. Zahl stated that, with one or two exceptions, a URS monitor was scheduled and monitored for at least part of the day on "almost all" of the days Dr. Yulo worked with Dr. Zahl [T2, 271]. Dr. Zahl asserted that he understood the order of March 2004 to exempt employees working in his practice from being monitored by the Practice Monitor [T2, 268], and claimed that as an employee, Dr. Yulo was not part of the "so-called Monitoring Program." [T2, 271].

He contended that there was no financial advantage to having Dr. Yulo perform a procedure without the presence of the URS monitor, as his fee and that of Dr. Yulo were identical [T2, 274].

As to his employment and supervision of Dr. Yulo, Dr. Zahl represented that Dr. Yulo responded to an advertisement seeking a physiatrist, including language indicating "... experience in injections desirable, willing to train. Experience in electrodiagnostics necessary." [T2, 284]. Dr. Zahl claimed that Dr. Yulo represented that he had taken a course involving simulated injections of the spine on cadavers, and that he had done several interventional injections, to include epidural injections, lumbar facet block injections and sacroiliac joint block injections [T2, 286-287]. Dr. Zahl stated that he believed he could offer Dr. Yulo training [T2, 290], and that Dr. Yulo needed to learn in order to advance beyond what is commonly known as level one injections -- "the lumbar facet blocks, the sacroiliac blocks and epidurals [Sic] injections." [T2, 291-292].

Dr. Zahl asserted that during an initial interview, which Dr. Zahl claimed occurred on September 23, 2004, Dr. Yulo observed Dr. Zahl perform one or two procedures, and that there were other times Dr. Yulo was invited to see different types of procedures [T2, 279]. He also claimed to have observed Dr. Yulo perform an EMG and three facet blocks or epidural injections on October 23, 2004, the first day Dr. Yulo worked after the interview [T3, 51-52].

Dr. Zahl's description of Dr. Yulo's skill level regarding the three lumbar facet blocks he performed on that initial occasion included the following:

"The observation was that he was slow, not inordinately slow. He was still at what we'd call in an entry level into the thing....He knew where he was going....actually, in terms of learning how to anesthetize the skin needed some help, in terms of some pointers. But essentially, he could do the procedure,...It was just a question of the efficiency and speed..."[T3, 55].

Dr. Zahl noted that after observing Dr. Yulo perform these procedures, he was prepared to teach Dr. Yulo to allow him to "complete... the entry level in pain management...and advance to the second phase of a pain specialist who does interventional procedures." [T3, 58]. On November 4, 2004, (represented by Dr. Zahl as the next occasion that Dr. Yulo worked), Dr. Zahl testified that after Dr. Yulo watched Dr. Zahl perform a radiofrequency lesioning procedure in the lumbar spine with a monitor present earlier in the day, Dr. Yulo performed such a procedure without a monitor. Dr. Zahl represented he did not have a monitor present as "...it would increase the tension level on the doctor..." [T3, 59]. Dr. Zahl also stated that there was no need for Dr. Yulo to be monitored, as he "...would watch him and take him through it, if he had a problem. ..." [T3, 60]. In response to his counsel's inquiry as to why Dr. Zahl did not feel there was a risk to his patient in permitting Dr. Yulo to perform the radiofrequency procedure in the lumbar spine, Dr. Zahl explained that if something

went wrong, he (Dr. Zahl) could stop it [T3, 61]. Dr. Zahl acknowledged that Dr. Yulo was going to do the procedure with him, not alone.

As to the performance of radiofrequency procedures in the cervical spine, Dr. Zahl claimed that Dr. Yulo eventually performed these procedures. Dr. Zahl claimed that he was always in the room with Dr. Yulo for all the cervical procedures, and further claimed that at times he would have his hands on top of Dr. Yulo's so as to make sure that Dr. Yulo got to the right spot and did not hit something inappropriate [T3, 69]. Dr. Zahl stated, however, that he never had his own hands on the needle with Dr. Yulo's hands on his, when no URS monitor was present [T3, 70]. Dr. Zahl maintained that Dr. Yulo was the primary physician doing these procedures.

Regarding performance of stellate ganglion procedures, Dr. Zahl claimed Dr. Yulo performed the procedure as the primary physician on two occasions, yet acknowledged that "I did this one on one with him" [T3, 73], apparently as to both occurrences. Similarly as to nucleoplasties, Dr. Zahl testified that Dr. Yulo did these as the primary operator only when Dr. Zahl was present, [T3, 74], but eventually acknowledged that Dr. Yulo only performed one [T3, 77].

Dr. Zahl testified regarding his preparation of virtually all of the operative reports for the procedures that he claims were performed by Dr. Yulo. His explanation was that Dr. Yulo was

"[t]oo slow." [T3, 92]. Dr. Zahl asserted that even as to the EMG reports that Dr. Yulo prepared, it took Dr. Yulo a long time, and "[h]e was not very computer literate." [Id]. He further claimed that Dr. Yulo wanted to leave at a fixed hour, when the procedures were ending, and as Dr. Yulo took longer to perform the procedures, "...the process was just too slow." [T3, 92-93]. Dr. Zahl claimed he showed Dr. Yulo the documents he had prepared for approval, but admitted he only did so at times, contending this was also due to Dr. Yulo's desire to leave, and the busy nature of the office. [T3, 93-94]. Dr. Zahl further asserted that he used a signature stamp on the records containing Dr. Yulo's signature with Dr. Yulo's permission. Dr. Zahl admitted that he called Dr. Yulo after he was aware of the investigation of this matter to request that he sign the operative records [T3, 94-95]. Upon cross examination, Dr. Zahl acknowledged that he had certified in a statement under oath provided to the Attorney General that Dr. Yulo signed every one of the operative reports at issue, and then admitted that Dr. Yulo did not in fact sign the reports [T3, 124-126].

Findings of Fact

The primary issue of fact that we are necessarily called upon to determine at this time is whether Dr. John Yulo or whether Dr. Kenneth Zahl was the primary attending physician for some 130 procedures, performed on various dates between October 2004 and September 2005, records of which have been reproduced and moved into evidence at S-2, S-3 and S-3a. If Dr. Zahl in fact was the primary attending physician for those procedures, then it is necessarily the case that Dr. Zahl has violated the terms of the extant monitoring orders which require that a Practice Monitor be present and observe all procedures that he performs. If, however, Dr. Yulo was the primary attending physician for the procedures, then the issue whether the procedures should have been subject to monitoring by the Practice Monitor and review of billings by the Billing Monitor is one that turns on interpretation of our May 2004 Consent Order.

Just as significantly, if Dr. Zahl rather than Dr. Yulo performed the procedures as the primary attending physician, then his having done so will necessarily support additional findings that Dr. Zahl has engaged in a cascade of lies and deceptive behaviors, to include findings that: 1) in those instances where Dr. Zahl prepared operative reports listing Dr. Yulo alone or Dr. Yulo and Dr. Zahl jointly as the physicians performing the procedure, Dr. Zahl created false patient records; 2) in those instances where

Dr. Yulo's name is "signed" (albeit by way of signature stamp) on the operative reports, the signature was placed on the document inappropriately without Dr. Yulo's consent or authorization; and 3) that Dr. Zahl falsely swore, when responding to a Demand for Statement in Writing from the Attorney General, that Dr. Yulo had been the primary attending physician for all of the 130 procedures and that Dr. Yulo had signed all of the operative reports.

Dr. Yulo has testified that he independently performed at a maximum ten to fifteen of the 130 procedures, and further testified that the only type of procedure that he would have independently performed would have been a SI (sacroiliac) or lumbar injection (but not a lumbar sympathetic block). Dr. Yulo categorically and emphatically denied that he independently performed any of the more complex procedures that were done in any of the 130 cases, to include cervical injection procedures, radio-frequency lesioning procedures, discograms, nucleoplasties, ganglion impar injections or stellate ganglion blocks (hereinafter we will refer to the above identified procedures as "advanced procedures"). Indeed, Dr. Yulo repeatedly not only swore that he did not perform the advanced procedures while in Dr. Zahl's employ, but also swore that he has never performed such advanced procedures at any time, that he was unqualified while employed by Dr. Zahl and is unqualified today to perform such advanced procedures, and that

were he to have performed the advanced procedures, he would have been placing patients at risk.

Dr. Yulo has also testified that he did not perform any of the three procedures that were performed on Saturday, October 23, 2004, as on that date he was at Dr. Zahl's office only to observe procedures, and that he was then unqualified to do any of the three procedures that were done on that date. Finally, Dr. Yulo has testified that he never has been to the Bergen Ambulatory Facility in Saddle Brook, New Jersey, and therefore denies that he performed either of the procedures which billing records suggest were performed at that facility.

Dr. Zahl has testified that Dr. Yulo performed all of the 130 procedures, to include all the advanced procedures, as the primary attending physician. Dr. Zahl states that he initially observed Dr. Yulo performing a given procedure, but that he thereafter had no involvement in procedures once he was satisfied that Dr. Yulo was capable of performing a given procedure.

There are numerous issues that are generated by Dr. Zahl's testimony, all of which ultimately support a conclusion that Dr. Zahl's testimony must be found to be not credible. Initially, Dr. Zahl admits that he prepared all of the operative reports for all of the 130 procedures at issue. We question why Dr. Zahl would have prepared those operative reports, if Dr. Yulo actually performed the procedures, given that the record is uncontroverted

on the point that Dr. Yulo performed and signed all operative reports for the EMGs that he performed while he was in Dr. Zahl's office, and thus was presumably capable of preparing operative reports on his own.

Further, if Dr. Zahl were telling the truth when he claimed that Dr. Yulo performed all the procedures, then Dr. Zahl has necessarily prepared numerous false operative records (that is, each record on which Dr. Zahl identifies himself alone, or himself and Dr. Yulo jointly as the physician(s) performing a procedure, is necessarily a false record. Similarly, were Dr. Zahl truthfully testifying that Dr. Yulo performed the procedures, then one would have to question why he would not have shown Dr. Yulo the operative reports (particularly for those procedures that Dr. Zahl claims he was not in the room for), so as to, at a minimum, ensure that the operative reports accurately stated what occurred when Dr. Yulo performed a procedure.

In a similar vein, we are troubled by the inherent illogic and inconsistency of Dr. Zahl's testimony regarding the level of training and supervision that he claims he afforded Dr. Yulo on the more complicated procedures. His testimony regarding Dr. Yulo's progression of skills, which, were Dr. Zahl to be believed, would in essence be meteoric, is unbelievable and indeed defies common sense, particularly in light of the absence of any suggestion in this record that Dr. Yulo came to Dr. Zahl's office

with appropriate background and training in such advanced procedures.

We also must question why, if Dr. Zahl were telling the truth about Dr. Yulo's participation, he would have had reason to telephone Dr. Yulo repeatedly (and have others do so on his behalf) after having received the Attorney General's Demand for Statement in Writing under Oath and attempt to badger Dr. Yulo into signing the operative reports. Similarly, we would question, if Dr. Yulo had actually performed the procedures, why Dr. Zahl would have told Dr. Yulo that he needed his signature on the reports for "billing purposes", rather than simply advise Dr. Yulo that the Attorney General was investigating those procedures and that Dr. Yulo should sign the reports so as to attest to the fact that he (Dr. Yulo) in fact had performed those procedures.

In contrast, we find Dr. Yulo's testimony to be credible. Dr. Yulo repeatedly conceded that he was not qualified to and would not have independently performed any of the more advanced procedures that were performed, and did so in a straightforward and consistent manner. We found Dr. Yulo's testimony concerning his inability to perform such procedures, and his admission that he would have placed patients at risk had he done so, to be compelling.

Ultimately, it is the case that both Dr. Yulo and Dr. Zahl cannot be telling the truth about what occurred in the

procedure room, as the testimony that each has offered is directly at odds with the other's testimony. In deciding this matter, we have therefore had to weigh the credibility of the testimony of Dr. Zahl and Dr. Yulo. We find and conclude that Dr. Yulo's testimony was straightforward and credible, and we likewise find that Dr. Zahl's testimony in repeated instances is incredible and unbelievable. We therefore reject Dr. Zahl's testimony to the extent it is in conflict with the testimony offered **by** Dr. Yulo.⁹

We are aware that, in concluding that Dr. Yulo is telling the truth and Dr. Zahl is not, we are necessarily discounting certain of the testimony that was offered by certain of Dr. Zahl's witnesses, most notably the testimony that was offered by Shontell Graham and the statements set forth in the certification of Sandra Ginard. While Ms. Graham has testified that she entered the name of the physician performing the procedure on the fluoroscopy image in each of the **130** cases, and that Dr. Yulo's name was entered in all but eight cases, we note that she also testified that her

⁹ While we are entirely satisfied that cause exists, on the record before us alone, to support all of the findings of fact we make herein (and ultimately to support our conclusion that a palpable demonstration has been made of clear and imminent danger), we would nonetheless be remiss were we not to consider, in making credibility determinations, the fact that Dr. Zahl was found in *Zahl I* to be a fundamentally corrupt and dishonest individual (which findings of fact have now been affirmed in their entirety following appellate review), and that the findings that were made in *Zahl I* included findings that Dr. Zahl repeatedly inserted the names of anesthesiologists who did not provide medical care to patients in patient records and that he repeatedly created false and misleading patient records.

entries were made prior to the commencement of any procedure, and her additional testimony that she would not change an entry once a procedure began, to bespeak volumes about the inherent unreliability of her entries. Simply put, there is nothing in our review of Ms. Graham's testimony that would suggest that Ms. Graham had any reliable information available to her before she entered a physician name in the record (while Ms. Graham's testimony on this point is difficult to follow, it appears that she testified at some point that her decision was in part based on information in the informed consent forms -- yet, we note, that the testimony is uncontroverted to the effect that only Dr. Zahl's name appears on all of the relevant consent forms), and it instead appears likely that she simply entered Dr. Yulo's name whenever Dr. Yulo was present in the procedure room. We also note that Ms. Graham's repeated testimony that she could have made mistakes on the eight occasions that she entered Dr. Zahl's name, but that she never made a mistake when entering Dr. Yulo's name, is simply not credible.

Ms. Sandra Ginard, the CRNA who was present on October 23, 2004, suggests in her certification that the suggestion in the operative reports for each of the three cases that the physician performing the procedure was John Yulo "fits with" her memory of the events. On the basis of the certification alone, however, we have no way of knowing whether Ms. Ginard has any independent recollection of events that transpired on that date, and we note

that the statement offered in her certification, prepared some fifteen months after October 23, 2004, is necessarily contradictory with the records she prepared on October 23, 2004, which list Dr. Zahl as the physician performing the procedure in two instances and were left blank in the third instance. Further, her statement in paragraph 6 that "she understood that Dr. Yulo would not be the physician billing for these procedures", perhaps offered to imply (but clearly not so stated in her certification) that the reason that she might have entered Dr. Zahl's name rather than Dr. Yulo's was for billing purposes, does not make sense. While Ms. Ginard thus notes that the billing arrangement between Dr. Zahl and Dr. Yulo was similar to the arrangement that she had with Dr. Zahl for billing for her services, we note that she in fact placed her own name upon and signed each of the three anesthesia reports. Simply put, we do not find Ms. Ginard's certification to be compelling, and instead find it far more likely that she recorded Dr. Zahl's name as the surgeon on the anesthesia reports for the simple reason that Dr. Zahl in fact performed the procedures.

Finally, we find that the testimony offered by Victoria Brand (set forth in a transcript entered into evidence as S-10, from an investigative inquiry conducted by the Attorney General on January 23, 2006), a CRNA who worked for Dr. Zahl during the period that Dr. Yulo was employed and who prepared many of the anesthesia reports for the procedures at issue in this case, is not testimony

upon which we can ground a conclusion that Dr. Yulo or Dr. Zahl performed any given procedure. Ms. Brand repeatedly stated that she would have filled out the surgeon's name on the anesthesia record by looking at "whoever did the procedure." [S-10, p. 25]. Ms. Brand testified that in instances where her record listed both Zahl and Yulo as the surgeons, it would indicate that both "were present in the room, but not necessarily both doing the procedure." [S-10, p. 41]. Ms. Brand also recalled that on several occasions, Dr. Yulo did minor procedures, to include facet injections, on his own with Dr. Zahl not present [S-10, 48-49].

We also note that we simply do not find the testimony offered by any of the patients who testified or offered certifications in this matter would cause us to alter our conclusion. No patient who testified or submitted a certification has thus categorically been able to state that Dr. Yulo in fact performed any procedure other than a lumbar injection or facet block, which Dr. Yulo has conceded he may have done on approximately ten to fifteen occasions. Marie Boin candidly conceded that she did not in fact see who inserted a needle in her neck on the one occasion that she recalls Dr. Yulo having performed a procedure upon her¹⁰; further, her testimony that on two other

¹⁰ Further, we note that Dr. Yulo did testify that, on some occasions, he assisted Dr. Zahl by inserting a needle into a patient even for certain advanced procedures, but Dr. Zahl would thereafter guide the needle to the appropriate location and administer any injection; it is possible, thus, that in the one

occasions (where procedure reports were supplied by Dr. Zahl) Dr. Zahl and Dr. Zahl alone performed an injection procedure upon her necessarily supports a conclusion that, on at least two occasions, Dr. Zahl was the primary attending physician for procedures that Dr. Zahl now claims were performed by Dr. Yulo. Thus, Dr. Zahl's own witness directly refutes his underlying claim in this matter.

Ultimately, we are convinced that the two individuals who presently know the truth of what was done in the operative room were the two physicians who were present in that office, Drs. Yulo and Zahl. Both cannot be telling the truth, as their accounts are diametrically at odds with one another. For the reasons we have recounted above, we have found the testimony offered by Dr. Yulo to be credible and that offered by Dr. Zahl to not be credible, and, based thereon, make the following findings of fact based on the record before us at this juncture of the proceeding:

1) Dr. John Yulo was employed in October 2004 by Dr. Kenneth Zahl, as an independent contractor being paid \$1500 per day for his services, to work in Dr. Zahl's offices. Dr. Yulo was employed primarily to conduct EMG testing, and worked primarily on Thursdays in either Dr. Zahl's Rockaway or Union office (generally in Union). Dr. Yulo worked in Dr. Zahl's office for the time

case Ms. Boin is referring to, that Dr. Yulo could have inserted the needle, but thereafter done nothing more to further the procedure.

period between October 23, 2004 and September 8 , 2005. During that time period, **Dr.** Zahl has sworn, in a written statement, that 130 procedures (records for which are in evidence at S-2, S-3, and S-3a) were performed without the presence of a URS practice monitor, either by Dr. Yulo alone or with Dr. Zahl present in a supervisory/proctoring capacity, and thereafter billed by Kenneth Zahl, M.D., Kenneth Zahl, M.D., P.C., Skylands Pain Relief Clinics or Ambulatory Anesthesia of New Jersey without having been reviewed by a URS monitor. For purposes of the further factual findings made below, we distinguish herein between SI/Lumbar procedures (other than lumbar sympathetic blocks), which we herein refer to as the "lumbar injection procedures" and all other procedures performed, which we herein refer to as the "advanced procedures."

2) Dr. Yulo did not perform any of the "advanced procedures" as the primary attending physician. At most, Dr. Yulo may have provided limited assistance to Dr. Zahl on certain of the advanced procedures, and, on other occasions, Dr. Yulo simply observed Dr. Zahl perform an "advanced procedure." Dr. Zahl was therefore the primary attending physician for each of the advanced procedures. The Practice Monitor was not present when any of the advanced procedures were performed. Dr. Zahl submitted bills for each of the advanced procedures in his name or the name of one of his practice entities and, by doing so, expressly violated the terms of the Board's May 2003 and May 2004 Orders, which prohibited

him from submitting bills for any procedures performed by Dr. Zahl which were not monitored by the Practice Monitor.

3) Dr. Yulo did not perform any of the three procedures that Dr. Zahl claims he performed as the primary attending physician on Saturday, October 23, 2004; rather, Dr. Yulo simply observed the three procedures performed on that date, which were in fact performed by Dr. Zahl. Dr. Zahl was therefore the primary attending physician for each of the three procedures performed on October 23, 2004. The Practice Monitor was not present when any of the advanced procedures were performed. Dr. Zahl submitted bills for each of the three October 23, 2004 procedures in his name or in the name of one of his practice entities and, by doing so, expressly violated the terms of the Board's May 2003 and May 2004 Orders, which prohibited him from submitting bills for any procedures performed by Dr. Zahl which were not monitored by the Practice Monitor.

4) On the record before us, we cannot determine which of the lumbar injection procedures were performed by Dr. Yulo and which were performed by Dr. Zahl as the primary attending physician. Dr. Yulo has testified that he performed ten to fifteen such procedures on his own, however it is impossible on this record to determine which of the approximate 57 lumbar injection procedures performed were done by Dr. Yulo individually. Nonetheless, we do find that the record before us supports a

finding that, in repeated instances, Dr. Zahl performed lumbar injection procedures as the primary attending physician, and that such procedures were performed in the absence of the Practice Monitor. Dr. Zahl submitted bills for lumbar injection procedures which he performed as the primary attending physician, in his name or in the name of one of his practice entities and, by doing so, expressly violated the terms of the Board's May 2003 and May 2004 Orders, which prohibited him from submitting bills for any procedures performed by Dr. Zahl which were not monitored by the Practice Monitor.

5) For each procedure performed in which Dr. Zahl was the primary attending physician, Dr. Zahl prepared false and misleading patient records (specifically, operative reports) on those occasions where he listed Dr. Yulo alone, or he and Dr. Yulo jointly, as the physician(s) who performed the procedure.

6) For each procedure performed in which Dr. Zahl was the primary attending physician, Dr. Zahl prepared false and misleading patient records (specifically, operative reports) on those occasions where Dr. Yulo's signature was affixed to the operative reports, so as to connote and suggest to the reader that Dr. Yulo had prepared and/or read the operative report and authorized its issuance. In fact, Dr. Yulo did not prepare nor read nor review any of the operative reports that were prepared for any of the

unmonitored procedures, and did not authorize Dr. Zahl to stamp his signature upon any of said reports.

7) Dr. Zahl's sworn statements, offered in response to the Demand for Statement in Writing Under Oath served upon him by the Attorney General, that Dr. Yulo signed all of the operative reports as the attending physician and that Dr. Yulo was the primary attending for each of the procedures identified in the response to the Demand for Statement in Writing Under Oath were false statements. After having sworn that Dr. Yulo signed all of the operative reports, Dr. Zahl telephoned Dr. Yulo and left a message on his machine wherein he requested an opportunity to meet with Dr. Yulo so that Dr. Yulo could sign the operative reports, on the pretext that the signatures were necessary for "billing purposes."

8) The URS have prepared six reports detailing their review of Dr. Zahl's billings, which reports have covered billings submitted between March 26, 2004 and March 31, 2005. No further reports have been prepared. URS representatives have certified that the reports have not been prepared because Dr. Zahl failed to provide, despite demand made, records related to certain procedures performed in and after April 2005. In October 2005, Dr. Zahl provided URS with written notice (in a letter from his attorney, John Jackson, to Kathy Ostrowski) detailing that he had unilaterally decided to discontinue the practice of copying and

forwarding requested records to URS, and advised that thereafter (commencing October 24, 2005) pertinent files and charts would only be made available at a scheduled time weekly or biweekly for onsite review at Dr. Zahl's office. Since the issuance of that letter, Dr. Zahl and URS have been at an impasse, and no bills submitted for any procedures have been reviewed since the letter was issued.

9) The May 2004 Consent Order provided, in paragraph 16, that:

The parties were unable to resolve other issues ... and agreed that URS shall be consulted by the Board's Medical Director with regard to these billing questions. The parties further agree that URS' determination on each of these questions be binding on the parties and that, if URS determines that Respondent has been inappropriately billing, he must reform and reissue his bills retroactively beginning with the date of the first report in which ... each allegedly inappropriate billing practice [was identified]. ... The following issues are the issues to be addressed by URS:

...
b) Whether fluoroscopy used in conjunction with injections given at multiple levels can be billed based on spinal level imaged (as argued by Respondent) or spinal region imaged (as maintained by the Attorney General)?

URS ultimately determined that Dr. Zahl's practice of billing on the basis of multiple spinal levels instead of a single billing based upon the spinal region treated in non-Medicare cases was improper, and that determination was set forth in each of the six billing monitoring reports that URS prepared. Notwithstanding Dr. Zahl's agreement that URS' determination would be binding, Dr. Zahl has continued to bill in the same fashion as he did prior to

receiving URS' determination, and has not reissued or reformed any bills that he submitted on a per level basis prior to receiving notification of URS' determination.

*Basis for Determination to Temporarily Suspend
Dr. Zahl's License*

We have concluded that the Attorney General has made a palpable demonstration that Dr. Zahl's continued practice would pose clear and imminent danger. The conclusion is based on the overwhelming evidence that demonstrates that Dr. Zahl has systematically, purposefully and continuously violated and evaded the terms of the Board's Monitoring Order, in a manner that has effectively precluded the Board from being able to monitor his practice. The evidence is thus overwhelming that Dr. Zahl has, time and time again, performed procedures without having the required Practice Monitor present, and without thereafter submitting the bills generated for those procedures (which aggregate in excess of \$500,000) to the Billing Monitor for review. The evidence is likewise compelling that Dr. Zahl has gone to extraordinary lengths to attempt to "cover-up" his violations of the Order -- indeed, he has shockingly engaged in many of the very same behaviors that we found to be a predicate for our order that his license be revoked in *Zahl I*. Dr. Zahl is thus again creating false patient records, and is once again inserting the name of a physician who did not meaningfully participate in a case in his patient records. Likewise, Dr. Zahl has again submitted false statements in writing (as he did to his disability carrier in *Zahl I*) to further advance his schemes and hide his misconduct. In this case, he has even attempted to secure the signature of another

physician (i.e., Dr. Yulo) on his patient records, after he swore that the physician had in fact signed each and every record, in a transparent attempt to cover-up his misconduct."

We are uniformly of the belief that an essential predicate of the stay of revocation that was entered by the Appellate Division (and indeed of the subsequent opinion reached by the Appellate Division that revocation was unduly harsh) was an unstated but necessary presumption that Dr. Zahl's practice could in fact be appropriately monitored, and that such monitoring was necessary to protect the public health safety and welfare. Likewise, we are of the opinion that the Appellate Division ordered that the Board monitor Dr. Zahl's practice during the pendency of appellate review because it was confident that monitoring would preclude Dr. Zahl from continuing to engage in the very abuses and misconduct that Dr. Zahl had been found to have committed in *Zahl I*.

It is clear, however, on this record, that the monitoring system which we crafted to effect the Appellate Division's order

¹¹ We note that we do not herein find it necessary to discuss the allegations related to Count II of the complaint, related to Dr. Zahl's failure to have yet paid the attorneys' fees that he was previously ordered to have paid. While there is no dispute that those fees have not yet been paid in full (the parties do dispute whether Dr. Zahl should be afforded an opportunity to pay the fees over time, with interest), we do not find that those charges would support a finding that continued practice by Dr. Zahl would present clear and imminent danger to public health, safety and welfare.

has been shattered and has proven insufficient to prevent Dr. Zahl from again engaging in fundamentally dishonest and corrupt conduct. Dr. Zahl has time and time again performed procedures knowing that the procedures were not being monitored, as required by the Board's orders, and thereafter submitted bills for those procedures, without subjecting the bills to the checks and balances established by the Monitoring Orders. He has done so notwithstanding the fact that he was clearly aware that the Board's Orders mandated that the procedures were to be observed by the Practice Monitor, and that bills for the procedure were to have been reviewed by the Billing Monitor. He has done so notwithstanding the fact that he was aware, or should have been aware, that the very reason that the Board imposed a requirement that a Practice Monitor observe his day to day conduct was because Dr. Zahl could not be trusted to prepare accurate patient records, as he had been found in *Zahl I* to have repeatedly "manufactured" "false and inaccurate patient records." Dr. Zahl has, by practicing outside the scope of the Practice Monitor, precluded this Board from having any way of knowing whether his patient records accurately reflect the procedures that were performed, and from having any means to assure that the bills for such procedures were not artificially or falsely inflated.

In short, it is clear on this record that Dr. Zahl has repeatedly engaged in actions which can be described as an "end-run" around the monitoring requirements of this Board. Dr. Zahl

has also engaged in unilateral conduct which has stymied and now in essence shut down the monitoring process. He has unilaterally decided when and whether he will comply with the terms of the Board's orders, as manifested by his unilateral decision to continue to bill fluoroscopies on a per level basis, notwithstanding the fact that he agreed to and was required to abide by the binding decision which URS was asked to make and did make on the issue. By doing so, he has necessarily evinced manifest contempt for the authority of this Board.

Ultimately, the fact that Dr. Zahl has continued to engage in misconduct strikingly similar to that in which he engaged in *Zahl I*, and that he has done so, and thereby risked his continued licensure, while fully aware that his practice was subject to the increased scrutiny of monitoring, bespeaks volumes about the impossibility of monitoring Dr. Zahl's conduct. Dr. Zahl has thus continued to engage in misconduct even when knowing that his practice was under the microscope of a Board monitoring process. We would expect that, having been given a lifeline to continue to practice by the courts, Dr. Zahl would have punctiliously sought to assure that his conduct was beyond reproach and that the monitoring continued unabated. Instead, Dr. Zahl has, even under the magnification of Board review, continued to create false records and continued to have engaged in the very sorts of fundamentally corrupt and dishonest behaviors we previously found

in *Zahl I*, and his actions have now shut down the monitoring process.

Finally, we are aware that there is no direct allegation before us which suggests that patient harm has been caused by Dr. Zahl's conduct. We nonetheless, are unanimously convinced that no such showing need be made to support a temporary suspension of license, as N.J.S.A. 45:1-22 requires that a palpable demonstration be made of clear and imminent danger to the public health, safety and welfare. We are convinced that the legislature would not have made absent or meaningless reference to the "public welfare" had it not intended to afford licensing boards the authority to temporarily suspend even in the absence of a showing of health risks, and we are further convinced that the public welfare is put in clear and imminent danger by a physician in whom no trust can be reposed. We further note that our action today is consistent with actions that we have taken before in cases that were not predicated upon allegations of direct patient harm. See Order of Temporary Suspension In the Matter of Maniit Sinah, M.D., filed March 21, 1996 (based solely on allegations that Dr. Singh had repeatedly borrowed money from patients without repaying the loans); Order of Temporary Suspension In the Matter of Maniit Sinah, M.D. filed December 23, 2004 (temporarily suspending license again based on Dr. Singh's attempt to borrow money from a patient, in violation of terms of Board Order that had reinstated his license); and Order of

Temporary Suspension In the Matter of Lawrence Nessman, M.D., filed October 23, 1996 (temporarily suspending license based primarily on allegations that Dr. Nessman engaged in economic fraud). See also Order of Temporary Suspension In the Matter of John Amabile, O.D., filed June 30, 1997 (New Jersey State Board of Optometrists) (temporarily suspending licensure in a case where Dr. Amabile was, among other items, alleged to have created false and misleading patient records; the Board of Optometrists therein commented that "we do not view the Legislature in utilizing the terms 'health, safety and welfare' to have intended to limit the scope of our authority to take action as to health risks only."). Further, we point out that Dr. Zahl's repeated creation of false and misleading records is conduct which "must be regarded as gross malpractice endangering the health or life of his patient.'" In re Jascalevich Revocation, 182 N.J. Super. 455, 472 (App. Div. 1982).¹²

¹² The entire quotation from In re Jascalevich Revocation on which we rely herein is as follows:

We are persuaded that a physician's duty to a patient cannot but encompass his affirmative obligation to maintain the integrity, accuracy, truth and reliability of the patient's medical record. His obligation in this regard is no less compelling than his duties respecting diagnosis and treatment of the patient since the medical community must, of necessity, be able to rely on those records in the continuing and future care of that patient. Obviously, the rendering of that care is prejudiced by anything in those records which is false, misleading or inaccurate. We hold, therefore, that a deliberate falsification by a physician of his patient's medical record, particularly when the reason therefore is to protect his own interest at the expense of his

For all the reasons set forth above, we unanimously conclude that the Attorney General has met the burden of demonstrating clear and imminent danger. **As** we find that Dr. Zahl has repeatedly and fundamentally violated the terms of the Board's monitoring orders, we conclude that no action short of the temporary suspension of Dr. Zahl's license could adequately protect the public. We therefore herein Order that Dr. Zahl's license be temporarily suspended. We will, however, based solely on our concerns for the welfare of chronic pain patients that Dr. Zahl may be presently treating, delay the implementation of the temporary suspension until March 9, 2006, subject to the conditions set forth below.

WHEREFORE, it is on this 3rd day of March, 2006

ORDERED, nunc pro tunc February 23, 2006:

The license of respondent Kenneth Zahl, M.D. to practice medicine and surgery in the State of New Jersey is ordered temporarily suspended, pending the completion of plenary proceedings in this matter. The temporary suspension shall be effective on March 9, 2006. Prior to March 9, 2006, respondent may treat any patients who are currently scheduled for appointments or

patient's, must be regarded as gross malpractice endangering the health or life of his patient. 182 N.J. Super. at 471-72.

procedures. Any procedures performed prior to March 9 shall be performed in the presence of a URS practice monitor.

Dr. Zahl shall forward, by fax, a copy of his schedule for the period between the date of pronouncement of this Order and March 9 to the Board office, attention William V. Roeder, not later than 5:00 p.m. on Friday, February 24, 2006. Dr. Zahl shall not schedule any new procedures during the period between the date of pronouncement of this Order and March 9, nor shall he see or treat any new patients during that time period. Dr. Zahl shall make appropriate arrangements for the transfer of care of his patients prior to March 9, 2006.

The findings made and actions taken by this Committee shall be presented to the full Board on March 8, 2006, at which time the Committee's findings and actions may be adopted, rejected or modified by the full Board.

HEARING COMMITTEE OF THE
NEW JERSEY STATE BOARD OF
MEDICAL EXAMINERS

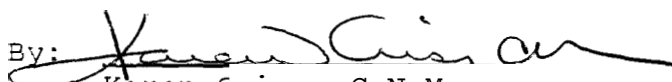
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Board Vice-president
Hearing Chair

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By: 
Karen Criss, C.N.M.
Board Vice-President
Hearing Chair